The Treaty on European Union 1993-2013: Reflections from Maastricht
The Treaty on European Union 1993-2013: Reflections from Maastricht
TABLE OF CONTENTS

List of Authors.................................................................................................................................... xvii
List of Abbreviations .......................................................................................................................... xxi
Acknowledgements ............................................................................................................................ xxv
Foreword ............................................................................................................................................. xxvii

Maartje de Visser & Anne Pieter van der Mei
The 20th Anniversary of the Maastricht Treaty: Reflections from Maastricht .................... 1

Elise Muir
Constitutional Change in the Shadow of the Maastricht Treaty................................. 9

1. Introduction ........................................................................................................................................ 9
2. The Substantive Core: The Internal Market Sharpened..................................................... 10
2.1. Refining the Reach of Negative Economic Integration ........................................... 11
2.2. Re-framing the Blossoming Potential for Positive Integration ................................... 14
2.3. Constitutional Implications: ‘Integrative Federalism’ .............................................. 16
3. The Institutional Framework: Acceptance of Integration through Judicial Law Making .................................................................................................................. 17
3.1. The Court of Justice as the Ultimate Guardian of the Dual Representation of People and States at the EU Level ................................................................. 17
3.2. Intensification of the Centralizing Powers of EU Law .......................................... 19
3.3. The Politics of Judicial Law Making .......................................................................... 23
4. Conclusion ...................................................................................................................................... 26

Bibliography ......................................................................................................................................... 28
### Table of Contents

**Monica Claes**  
A Look through the Lens of the Member States’ Constitutions: Maastricht as the Beginning of a New Era? ................................................................. 35

1. Introduction .......................................................................................................... 35
2. National Constitutional Amendments Accompanying Treaty Amendment ................................................................. 37
3. (Constitutional) Courts’ Involvement in the Ratification Process .................. 43
4. Final Remarks ....................................................................................................... 48

Bibliography ................................................................................................................... 50

**Bruno De Witte**  
The Elusive Unity of the EU Legal Order after Maastricht ........................................ 53

1. Introduction: The Unity of the Community Legal Order and the Maastricht Treaty’s Separate Paths ........................................................................ 53
2. The Slow Absorption of the Organizational Dichotomy between the Community and the Union .......................................................... 55
   2.1. The Creation of the Pillar Structure at Maastricht .................................... 55
   2.2. Evolution of the Pillar Structure from Maastricht to Nice ....................... 58
   2.3. Towards the Merger of the European Community and the European Union (2002-2009) ........................................................................ 59
3. The Spread of Variable Geometry from the Maastricht Opt-Outs to the Euro Crisis ................................................................. 62
   3.1. Pre-Maastricht Closer Cooperation ..................................................... 62
   3.2. The Birth of Institutional Flexibility in the Maastricht Treaty ............... 64
   3.3. The Creation and Evolution of Enhanced Cooperation ......................... 65
   3.4. The Multiplication of Structured Opt-Out Regimes and the Revival of Inter Se Agreements .............................................................. 68
   3.5. The Permanence of Many-Faced Differentiation .................................... 69
4. Conclusion: One Legal Order, but a Fragmented One ................................... 70

Bibliography ................................................................................................................... 71

**Maja Brkan**  
The Role of the European Court of Justice from Maastricht to Lisbon: Putting Together the Scattered Pieces of Patchwork .............................................. 77

1. Introduction .......................................................................................................... 77
2. General Tendency in the Case Law: Gradual Changing of Focus ................. 78
3. Former First Pillar: Strengthening the Role of the ECJ ................................. 79
   3.1. Citizenship ................................................................................................. 79
   3.2. Economic and Monetary Union ................................................................. 82
4. Former Second Pillar: The Odd One Out .......................................................... 85
5. Former Third Pillar: From a Shy Start to a Fully-fledged Jurisdiction ....... 89
<table>
<thead>
<tr>
<th>Table of Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Conclusion: Putting Together the Pieces of Patchwork .................................. 92</td>
</tr>
<tr>
<td>Bibliography ................................................................................................................... 94</td>
</tr>
</tbody>
</table>

**Phedon Nicolaides**

Withdrawal from the European Union: An Option with Unforeseen Consequences ................................................................................................................... 99

| 1. Introduction .......................................................................................................... 99 |
| 2. The Entry and Exit Procedures Compared ..................................................... 101 |
| 2.1. Entry Procedure ................................................................................................. 101 |
| 2.2. Exit Procedure .................................................................................................... 103 |
| 2.3. Differences between Entry and Exit ................................................................ 104 |
| 3. The Challenges for the Withdrawing Member State ..................................... 107 |
| 4. Non-application of EU law or Emergence of a Legal Lacuna? .................... 109 |
| 5. Two Case Studies ............................................................................................... 111 |
| 5.1. Case Study I: Withdrawal of the United Kingdom from the EU................. 111 |
| 5.2. Case Study II: Procedural Issues: The Referendum on Possible Withdrawal of Scotland from the United Kingdom ...................................... 115 |
| 6. Conclusions......................................................................................................... 117 |

Bibliography ................................................................................................................... 118

**Anja Wiesbrock & Katharina Eisele**

Twenty Years After Maastricht and Nineteen Years After Porto: What Has Become of the Objective of Creating a Dynamic and Homogeneous European Economic Area? ................................................................................................................ 121

| 1. Introduction ........................................................................................................ 121 |
| 2. Existing Mechanisms to Ensure a Homogeneous and Dynamic Interpretation of the EEA Agreement ............................................................. 122 |
| 3. Dynamic Interpretation in the Light of EU Treaty Amendments ............... 124 |
| 3.1. The Objectives of the EEA Agreement ............................................................ 126 |
| 3.2. The Central Role Accorded to the Protection of Individual Rights .......... 128 |
| 3.3. Principles Forming an Integral Part of the EEA Agreement: Guaranteeing Effectiveness? ................................................................. 130 |
| 3.4. Intentional Differences between EU and EEA Law .................................... 132 |
| 4. Conclusion .......................................................................................................... 134 |

Bibliography ................................................................................................................... 136

**Diane Fromage**

Subsidiarity: From a General Principle to an Instrument for the Improvement of Democratic Legitimacy in Lisbon ................................................................................................................ 139

| 1. Introduction ........................................................................................................ 139 |
| 2. The Principle of Subsidiarity in Maastricht: A Magic Formula? ................. 139 |

vii
Table of Contents

3. Evolution (or Revolution?) since Maastricht .................................................. 142
4. Subsidiarity and its Content in Lisbon ............................................................ 144
5. The Consequences of the Introduction of the Early Warning System ........ 146
   5.1. EU Level .............................................................................................................. 148
   5.2. Horizontal Cooperation .................................................................................... 151
   5.3. National Level .................................................................................................... 152
6. Subsidiarity Twenty Years Later: Brief Assessment and Outlook .............. 153

Bibliography ................................................................................................................... .. 154

Christian Syrier
Born in Maastricht: The Right of Inquiry of the European Parliament .......... 157

1. Introduction ........................................................................................................ 157
2. The Right of Inquiry Prior to Maastricht ........................................................ 158
3. The Right of Inquiry Since Maastricht ............................................................ 159
   3.1. Powers of Committees of Inquiry ................................................................. 160
   3.2. Inquiry Proceedings ....................................................................................... 161
   3.3. The Right of Inquiry in Practice: Three Inquiries Since Maastricht .......... 162
       3.3.1. Transit Inquiry ............................................................................................ 163
       3.3.2. BSE Inquiry ............................................................................................... 164
       3.3.3. Equitable Life Inquiry ............................................................................... 165
       3.3.4. Comparing the Three Inquiries ................................................................. 166
           3.3.4.1. Working Methods .................................................................................. 166
           3.3.4.2. Legal Limitations in Practice ............................................................... 167
           3.3.4.3. The Right of Inquiry: A Useful Instrument? ........................................ 170
4. The Right of Inquiry: Where to Go From Here? ............................................ 170
5. Conclusion .......................................................................................................... 174

Bibliography ................................................................................................................... .. 176

Sarah Schoenmaekers
The Increasing Influence of the Ombudsman in the Institutional System of the European Union ............................................................... 177

1. Introduction and Historical Background ........................................................ 177
2. Mandate of the European Ombudsman ........................................................... 180
2.1. Inquiries ............................................................................................................ 182
2.1.1. The Initiation of Inquiries in Response to a Complaint ............................ 182
2.1.2. The Initiation of Inquiries on Own Initiative .............................................. 187
2.2. Investigating Facts ............................................................................................ 188
2.3. Remedial Action .............................................................................................. 189
3. Changing Role? .................................................................................................. 192
4. Future Outlook ................................................................................................... 195

Bibliography ................................................................................................................... .. 199
Maartje de Visser  
Taking Care of Business? Ensuring Respect for Fundamental Rights in Europe .......................... 201  
1. Introduction ........................................................................................................ 201  
3. Keeping Member States in Check: The Development of an Internal Control Mechanism .......................................................... 205  
4. The External Dimension: Fundamental Rights Protection in the Accession Process ............................................................ 210  
5. The Need for New Internal Institutional Arrangements? .................... 214  
6. Final Remarks ..................................................................................................... 217  
Bibliography ............................................................................................................... 219  

Jan Wouters & Hanne Cuyckens  
Festina Lente: CFSP from Maastricht to Lisbon and Beyond ........................................ 223  
1. Introduction ........................................................................................................ 223  
2. The Forerunner: European Political Cooperation .......................................... 223  
3. CFSP in the Maastricht Treaty: A Major Turning Point? .............................. 225  
   3.1. Objectives and Principles .......................................................................... 226  
   3.2. Instruments of the Union ......................................................................... 227  
   3.3. Institutional Framework and Decision-Making ...................................... 228  
4. Evolution of CFSP since Maastricht ................................................................. 230  
   4.1. The Amsterdam Treaty .......................................................................... 230  
   4.2. Nice Treaty ............................................................................................... 232  
   4.3. From Laeken to the Constitution for Europe and the Lisbon Treaty ...... 233  
5. Outlook ............................................................................................................. 236  
Bibliography ............................................................................................................... 239  

Andrea Ott  
Between Pillars and Policies: The Quest for Consistency in EU External Relations Law ........................................................................................................ 243  
1. Introduction ........................................................................................................ 243  
1.1. The Maastricht Treaty and External Relations ............................................ 243  
1.2. Consistency in EU External Relations ......................................................... 245  
2. Maastricht to Nice: Consistency versus Supranationalism ............................ 247  
   2.1. The Antipode to Consistency: Article 47 TEU ....................................... 247  
   2.2. Integrated but Separated Legal Orders: The Saga of Smart Sanctions .... 250  
3. Post-Lisbon Consistency between Intergovernmentalism and Supranationalism: Unity in Diversity? ...................................................... 252  
   3.1. The Mutual-Affectation Clause of Article 40 TEU .................................. 253  
   3.2. Consistency in Practice: The Strategy for Security and Development in the Sahel ................................................................. 260
Table of Contents

5. Multilateral and Vertical Cooperation ............................................................ 326
6. Conclusions......................................................................................................... 330

Bibliography ................................................................................................................... .. 333

**Stephan Rammeloo**
European Private International Law: *Quo Vadis? A Methodological Journey from Maastricht to Amsterdam, Lisbon and further – Future Challenges* ............. 337

1. Introduction ........................................................................................................ 337
2. The ‘Europeanization’ of PIL – The Institutional Framework ..................... 338
2.1. The Dawning Years (1958-1973)................................................................. 338
2.2. The Institutional Deficit – The ‘Maastricht’ Call for Harmonization (1973-1992) .......................................................................................................... 338
2.3. From ‘Amsterdam’ to ‘Lisbon’ (1992-2009) .................................................... 339
2.4. The ‘Post-Lisbon’ Era – EU ‘International Presence’ and New PIL Parameters .......................................................................................................... 341
3. European PIL – An Inventory .......................................................................... 341
3.1. Accomplishments........................................................................................... 341
3.2. Proposed PIL Regulations ........................................................................... 343
4. European PIL – Today’s and Tomorrow’s Challenges ................................. 343
4.1. Leaving Traditional PIL Behind ................................................................... 343
4.2. PIL and Primary EU Law .............................................................................. 344
4.3. PIL and Secondary EU Law – EU Directives .............................................. 346
4.4. PIL and Secondary EU Law – EU Regulations ........................................... 349
5. Conclusions......................................................................................................... 352

Bibliography ................................................................................................................... .. 353

**Floris De Witte**
Union Citizenship and Constrained Democracy ......................................................... 357

1. Introduction ........................................................................................................ 357
2. Citizenship and the Integration Process ......................................................... 358
3. The Creation of a Constrained Citizenship .................................................... 363
3.1. Obligations of Citizenship ............................................................................. 364
3.2. Solidaristic Rights .......................................................................................... 366
3.3. Rights to Political Participation ...................................................................... 369
4. For an Unconstrained Citizenship ................................................................... 370
5. Conclusion.......................................................................................................... 375

Bibliography ................................................................................................................... .. 376
Nicola Gundt  
The Social (Rights) Dimension of EU Citizenship ....................................................... 383

1. Introduction ........................................................................................................ 383
2. Citizenship .......................................................................................................... 385
2.1. Political Rights.................................................................................................... 386
2.2. Civil Rights ......................................................................................................... 387
2.3. Economic and Social Rights .............................................................................. 387
3. The Development of EU Citizenship through Case Law ............................. 388
3.1. Secondary Legislation Requirements .............................................................. 389
3.2. Equal Treatment................................................................................................. 391
3.3. Social Citizenship: Retrospective and Perspectives ........................................... 392
4. Why has a Floor of Social Rights not (yet) Developed?................................ 393
4.1. The Nature of Social Rights .............................................................................. 393
4.2. EU Legislative Competence in the Field of Social Rights ............................. 394
4.3. Fundamental Social Rights in the EU.............................................................. 395
4.4. The Structural Bias towards Economic Aims................................................. 397
4.5. The Influence of the EMU ................................................................................. 399
5. Conclusion .......................................................................................................... 400

Moritz Jesse  
'Disrupting and Annoying' – EU Citizenship and EU Migration Law  
Destroying Old Habits of National Migration Policy Making................................... 407

1. Introduction – Migration in Europe in the 21st Century .............................. 407
2. The Classic Dichotomy between 'National' and 'Foreigner' ....................... 408
3. Blurring the Boundary between Nationals and Foreigners ......................... 410
3.1. Citizens of the Union and their Family Members 'Migrating' within the EU ......................................................................................................................... 411
3.2. The EU Citizen and their Family Members Who Have Never Moved ...... 414
3.3. Third-Country Nationals under EU Law ..................................................... 418
4. Conclusion: Blurring Boundaries between Citizens and Foreigners .......... 422

Wouter Devroe & Pieter Van Cleynenbreugel  
Internal Market, Competition Law and Industrial Policy  .......................................... 429

1. Introduction ........................................................................................................ 429
2. Embedding EU Economic Integration in the Wake of Maastricht: Three Hypothetical Benchmarks ................................................................................. 430
3. Internal Market Adaptations ............................................................................ 431
3.1. Rebalancing Market Regulation Competences .............................................. 432
3.2. Monetary Union and Fundamental Rights ..................................................... 435
3.3. Towards Horizontal Direct Effect? ................................................................. 436
Table of Contents

4. Predominantly Extra-constitutional Competition Law Transformations . 437
   4.1. Open Market Economy with Free Competition .......................... 438
   4.2. Services of General Interest and Monetary Union ....................... 439
   4.3. Modernisation, Decentralisation and Private Enforcement ............ 440
5. Industrial Policy (Still) in the Making ............................................. 442
   5.1. Enhancing EU Research and Technological Development ............... 442
   5.2. A New Industry Title ................................................................ 443
   5.3. Attempts at Industrial Policy Revival ........................................... 444
6. Conclusion ................................................................................................. 445

Bibliography ........................................................................................................... 446

Vestert Borger & Stefaan Van den Bogaert
Twenty Years After Maastricht: The Coming of Age of the EMU? ............... 451

1. Introduction ................................................................................................. 451
2. The Architecture of the EMU ..................................................................... 452
   2.1. Background to the EMU .................................................................... 452
   2.2. The Legal Set-up of the EMU in the Maastricht Treaty ....................... 454
   2.3. The Weaknesses of the Original Legal Setup of the EMU .................... 455
3. The Transformation of the EMU ................................................................. 459
   3.1. Emergency Measures to Overcome the Crisis .................................... 459
   3.2. Structural Solutions to Strengthen the EMU ...................................... 462
   4. The Specific Case of the ESM ................................................................. 465
   4.1. The ESM and the Importance of Financial Stability ......................... 465
   4.2. The ESM and the Transition from Market Discipline to Public
        Discipline ................................................................................................... 467
   4.3. The ESM and Differentiation ............................................................... 468
5. The Future of the EMU ............................................................................... 469

Bibliography ........................................................................................................... 472

Mark Dawson
Economic and Monetary Union: Maastricht’s Great Failure ....................... 475

1. The House that Maastricht Built ............................................................... 475
2. Why Economic and Monetary Union? ..................................................... 477
3. The Maastricht Architecture: EMU’s Three Pillars ................................. 478
4. The Functioning of EMU ......................................................................... 481
5. From Maastricht to Lisbon: Before the Fall ............................................. 482
6. The Crisis and its Aftermath ..................................................................... 484
7. Conclusion ................................................................................................... 488

Bibliography ........................................................................................................... 490
## Table of Contents

### Saskia Klosse
How Little Red Riding Hood coped with the EMU Wolf – The Quest for Adequate Modes to Manage the Social Consequences of European Integration .... 493

1. Introduction ................................................................. 493
   2.1. Novelties Brought about by the Maastricht Treaty ...................... 494
   2.2. Post-Maastricht Developments in the Economic Field ................. 495
   3.1. Novelties Brought about by the Maastricht Treaty ................. 500
   3.2. Post-Maastricht Developments in the Social Field .................... 501
   3.2.1. Treaty Amendments ......................................................... 501
   3.2.2. Parallel Development Focusing on Convergence through Policy Coordination .......................................................... 502
4. A Proper Balance? .......................................................... 505
5. Change of Perspective ..................................................... 508
6. Conclusion ........................................................................ 511

Bibliography ........................................................................ 512

### Lisa Waddington
Social Policy and the Maastricht Treaty: Much Ado about Nothing?........... 515

1. Introduction ...................................................................... 515
2. Background ....................................................................... 516
3. The Maastricht Social Provisions ......................................... 518
   3.1. Social Provisions in the Main Treaty .................................... 518
   3.2. The Social Protocol .......................................................... 519
   3.3. The Agreement on Social Policy ........................................ 520
4. The Impact of the Agreement on Social Policy: Maastricht to Amsterdam .......................................................... 522
   4.1. Legal Status of the Agreement on Social Policy and Acts Adopted under the Agreement ........................................ 522
   4.2. Failure to Develop an Ambitious Social Policy on the Basis of the Agreement ..................................................... 523
   4.3. Development of a More Ambitious Social Policy on the Basis of the Main Treaty .................................................... 525
5. The Maastricht Provisions on Social Policy in Hindsight ................. 527
   5.1. The Agreement as a Model for Future Titles on Social Policy ..... 527
   5.2. An Experiment in Differentiation that Paved the Way for More ....... 529
6. Conclusion: Social Policy and the EU Today ................................ 530

Bibliography ........................................................................ 532
Marjan Peeters
Twenty Years of EU Environmental Legislation after Maastricht: The Increasing Role of the EU as a Global Green Standard-Setter

1. Introduction ........................................................................................................ 535
2. The EU Environmental Competence in View of the Maastricht Treaty ..... 535
3. Greening Europe through Legislative Action ................................................ 540
   3.1. Seeking Coherence in a Complex Domain ................................................ 540
   3.2. The Challenge of an Adequate Regulatory Approach.................................. 542
   3.3. Compliance ................................................................................................ 544
4. Greening the World ........................................................................................... 547
5. Conclusion .......................................................................................................... 551

Bibliography ................................................................................................................... 553

Chris Backes & Mariolina Eliantonio
Access to Courts for Environmental NGOs at the European and National Level: Improvements and Room for Improvement since Maastricht? .............................................. 557

1. Introduction ........................................................................................................ 557
2. Effectiveness and Effective Judicial Protection .............................................. 558
3. The Aarhus Convention and its Transposition into EU Law ....................... 561
4. Access to Justice at the EU level: Are the Obstacles Insurmountable? ...... 563
   4.1. The Plaumann Doctrine and Environmental Claims ................................ 563
   4.2. The Changes Brought by the Lisbon Treaty: Still no Access to Justice .... 567
   4.3. The Rationale of the ECJ’s Restrictive Approach: The ‘Complete’ System of Remedies........................................................................................................ 568
   4.4. Interim Conclusion ........................................................................................ 570
5. Access to Justice before the Courts of the Member States ......................... 572
   5.1. The Legislative Transposition of Directive 2003/35/EC in the Member States ..................................................................................................................... 572
   5.2. CJEU Case Law on Article 9(2) of the Aarhus Convention and Directive 2003/35 .................................................................................................................. 573
   5.3. CJEU Case Law on Article 9(3) of the Aarhus Convention: The Issue of Direct Effect ........................................................................................................ 574
6. Conclusions .......................................................................................................... 576

Bibliography ................................................................................................................... 579

Gary Low
No Bark and Less Bite? What Article 169 TFEU hasn’t done for Consumer Law and Why Not ........................................................................................................ 581

1. Introduction ........................................................................................................ 581
2. From Rome to Maastricht: The Legal Basis for Consumer Legislation ..... 582
3. Why Article 169 TFEU has no Bark and even less Bite ................................. 585
   3.1. If it ain’t Broke don’t Fix it ........................................................................... 585
Table of Contents

3.2. Even if it is Broke don't Fix it ................................................................. 586
3.3. Consumer Policy as Internal Market Policy .......................................... 587
3.4. Horizontal Integration of Consumer Policy .......................................... 590
3.5. The Standards of Harmonisation............................................................. 590
4. Conclusion .................................................................................................. 594

Bibliography ........................................................................................................ 595

Sacha Garben
The Case to Correct Some of Maastricht’s Mistakes: A Critical Assessment of Article 165 TFEU on Education and Suggestions for Reform .................................................. 599

1. Introduction ................................................................................................. 599
2. The Janus-Faced Nature of Article 165 TFEU: Serving the Two Masters of Authorization and Restraint ......................................................... 600
3. The Flawed Nature of Article 165 TFEU: No Restraint......................... 603
   3.1. Negative Integration .............................................................................. 603
   3.2. Positive Integration ............................................................................... 604
   3.3. Intermediary Conclusions .................................................................... 606
4. The Flawed Nature of Article 165 TFEU: No Real Authorization............ 607
5. The Core Cause of the Competence Problem ......................................... 610
   5.1. Articles 114 and 352 TFEU .................................................................. 610
   5.2. Functionality as an Inalienable Feature of the EU Legal Order ........ 611
   5.3. Intermediary Conclusions .................................................................... 614
6. The Need to Reform Article 165 TFEU .................................................... 614
7. Conclusion .................................................................................................. 616

Bibliography ........................................................................................................ 618

Anne Pieter van der Mei & Ellen Vos
The State of the European Health Union – The Maastricht Contribution to EU Health Policy .......................................................... 623

1. Introduction ................................................................................................. 623
2. EU Health Policy: A Brief History ............................................................ 624
   2.1. Pre-Rome: The Failed European Health Community ....................... 624
   2.2. From Rome to Maastricht to Lisbon .................................................. 626
3. The Internal Market Pillar ........................................................................... 629
   3.1. A ‘Healthy’ Internal Market ................................................................. 630
   3.2. The Internal Health Market ................................................................. 632
4. The Maastricht Pillar: Health Policy \textit{pur sang} ....................................... 635
5. Concluding Remarks .................................................................................. 638

Bibliography ........................................................................................................ 640

xvi
LIST OF AUTHORS

Chris Backes is Professor of Constitutional and Administrative Law at Maastricht University

Vestert Borger is a doctoral researcher at the Europa Institute at Leiden Law School

Maja Brkan is Assistant Professor in EU Law at Maastricht University

Monica Claes is Professor of European and Comparative Constitutional Law at Maastricht University

Hanne Cuykens is Assistant and Junior Member at Leuven Centre for Global Governance Studies – Institute for International Law at Leuven University

Mark Dawson is Professor of European Law and Governance at the Hertie School of Governance

Maartje de Visser is Assistant Professor of Law at the Singapore Management University

Bruno De Witte is Professor of EU Law at Maastricht University, part-time professor at the Robert Schuman Centre of the European University Institute and co-director of the Maastricht Centre for European Law

Floris De Witte is a Fellow at the Department of Law of the London School of Economics

Wouter Devroe is Professor of European Competition Law at Maastricht University and full Professor of Law at KU Leuven

Katharina Eisele is a Researcher at the Centre for European Policy Studies
Mariolina Eliantonio is Assistant Professor of European Administrative Law at Maastricht University

Diane Fromage is Associate Professor in Law at Pompeu Fabra University

Sacha Garben is a Legal Officer at the European Commission

Nicola Gundt is Assistant Professor in Labour Law at Maastricht University

Moritz Jesse is Assistant Professor in EU Law at the Europa Institute at Leiden Law School

Johannes Keiler is Assistant Professor in Criminal Law at Maastricht University

André Klip is Professor of Criminal Law, Criminal Procedure and Transnational Criminal Law at Maastricht University

Saskia Klosse is Professor of Social Law at Maastricht University

Gary Low is Assistant Professor of Law at the Singapore Management University

Elise Muir is Associate Professor in EU Law at Maastricht University

Phedon Nicolaides holds the Jan Tinbergen Chair for European Economics at the College of Europe, Brugge

Andrea Ott is Associate Professor of EU Law at Maastricht University and holder of a Jean Monnet Chair in EU Law

Michele Panzavolta is Assistant Professor in Criminal Law at Maastricht University and Marie Curie Fellow

Marjan Peeters is Professor of Environmental Policy and Law at Maastricht University

Stephan Rammeloo is Associate Professor in (European) Company Law, Private International Law and Comparative Law at Maastricht University

Jorrit Rijpma is Associate Professor at the Europa Institute at Leiden Law School

Sarah Schoenmaekers is Assistant Professor at Maastricht University, post-doc researcher in EU Law at the Open University in Heerlen and a lawyer in Belgium

Christian Syrier is a legal counsel at the Directorate of Legislation of the Dutch Ministry of Security and Justice
List of Authors

Pieter Van Cleynenbreugel is Assistant Professor at the Europa Institute at Leiden Law School

Stefaan Van den Bogaert is Professor in European Law and Director of the Europa Institute at Leiden Law School

Anne Pieter van der Mei is Associate Professor in EU Law at Maastricht University

Ellen Vos is Professor of EU Law at Maastricht University and co-director of the Maastricht Centre for European Law

Lisa Waddington holds the European Disability Forum Chair in European Disability Law at Maastricht University

Anja Wiesbrock is a Postdoctoral Fellow at the Institute for Private Law at the University of Oslo

Jan Wouters is Jean Monnet Chair ad personam, Professor of International Law and International Organizations and Director of the Leuven Centre for Global Governance Studies – Institute for International Law at KU Leuven
LIST OF ABBREVIATIONS

ACP  African, Caribbean and Pacific Group of States
AFSJ  Area of Freedom, Security and Justice
AQIM  Al-Qaeda Islamic Maghreb
Art.  Article
ATV  Air Transport Visa
BSE  Bovine Spongiform Encephalopathy
BVerfG  Bundesverfassungsgericht
CAP  Common Agricultural Policy
CATS  Comité Article Trente-Six
CCI  Convergence and Competitiveness Instrument
CEEP  European Centre of Employers and Enterprises providing Public services
CFI  Court of First Instance
CFR  Charter of Fundamental Rights
CFSP  Common Foreign and Security Policy
CISA  Convention Implementing the Schengen Agreement
CJEU  Court of Justice of the European Union
COE  Council of Europe
COSAC  Conference of Parliamentary Committees for Union Affairs
COSI  Standing Committee on Internal Security
CPAS  Centre public d’aidé sociale
CSDP  Common Security and Defence Policy
CSF  Common Strategic Framework
DG  Directorate General
EAEC  European Atomic Energy
EASO  European Asylum Support Office
EAW  European Arrest Warrant
EC  European Community
ECB  European Central Bank
ECHR  European Convention on Human Rights
ECJ  European Court of Justice
ECOFIN  Economic and Financial Affairs Council
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECOWAS</td>
<td>Economic Community of West African States</td>
</tr>
<tr>
<td>ECSC</td>
<td>European Coal and Steel Community</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>ECU</td>
<td>European Currency Unit</td>
</tr>
<tr>
<td>EDIU</td>
<td>European Drug Intelligence Unit</td>
</tr>
<tr>
<td>EDP</td>
<td>Excessive Deficit Procedure</td>
</tr>
<tr>
<td>EEA</td>
<td>European Economic Area</td>
</tr>
<tr>
<td>EEAS</td>
<td>European External Action Service</td>
</tr>
<tr>
<td>EEB</td>
<td>European Environmental Bureau</td>
</tr>
<tr>
<td>EEC</td>
<td>European Economic Community</td>
</tr>
<tr>
<td>EES</td>
<td>European Employment Strategy</td>
</tr>
<tr>
<td>EESC</td>
<td>European Employment and Social Committee</td>
</tr>
<tr>
<td>EEW</td>
<td>European Evidence Warrant</td>
</tr>
<tr>
<td>EFSF</td>
<td>European Financial Stability Facility</td>
</tr>
<tr>
<td>EFSM</td>
<td>European Financial Stabilisation Mechanism</td>
</tr>
<tr>
<td>EFTA</td>
<td>European Free Trade Area</td>
</tr>
<tr>
<td>EIO</td>
<td>European Investigation Order</td>
</tr>
<tr>
<td>EIP</td>
<td>Excessive Imbalance Procedure</td>
</tr>
<tr>
<td>EMS</td>
<td>European Monetary System</td>
</tr>
<tr>
<td>EMU</td>
<td>Economic and Monetary Union</td>
</tr>
<tr>
<td>ENGO</td>
<td>Environmental Non-Governmental Organisation</td>
</tr>
<tr>
<td>ENVI Committee</td>
<td>Committee on Environment, Public Health and Food Safety</td>
</tr>
<tr>
<td>EP</td>
<td>European Parliament</td>
</tr>
<tr>
<td>EPC</td>
<td>European Political Community</td>
</tr>
<tr>
<td>EPC</td>
<td>European Political Cooperation</td>
</tr>
<tr>
<td>EPP</td>
<td>Euro Plus Pact</td>
</tr>
<tr>
<td>EPPO</td>
<td>European Public Prosecutor Office</td>
</tr>
<tr>
<td>EPU</td>
<td>European Political Union</td>
</tr>
<tr>
<td>ERM</td>
<td>Exchange Rate Mechanism</td>
</tr>
<tr>
<td>ERTA</td>
<td>European Road Transport Agreement</td>
</tr>
<tr>
<td>ESA</td>
<td>EFTA Surveillance Authority</td>
</tr>
<tr>
<td>ESC</td>
<td>European Social Charter</td>
</tr>
<tr>
<td>ESCB</td>
<td>European System of Central Banks</td>
</tr>
<tr>
<td>ESCR</td>
<td>European Committee of Social Rights</td>
</tr>
<tr>
<td>ESF</td>
<td>European Social Fund</td>
</tr>
<tr>
<td>ESM</td>
<td>European Stability Mechanism</td>
</tr>
<tr>
<td>ESS</td>
<td>European Security Strategy</td>
</tr>
<tr>
<td>ETUC</td>
<td>European Trade Union Confederation</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EUCAP Sahel Niger</td>
<td>European Union CSDP mission in Niger</td>
</tr>
<tr>
<td>EUCFR</td>
<td>Union’s Charter of Fundamental Rights</td>
</tr>
<tr>
<td>EUJUST LEX</td>
<td>European Union Integrated Rule of Law Mission for Iraq</td>
</tr>
<tr>
<td>EUJUST THEMIS</td>
<td>European Union Rule of Law Mission in Georgia</td>
</tr>
<tr>
<td>EULEX</td>
<td>European Union Rule of Law Mission in Kosovo</td>
</tr>
<tr>
<td>EUROPOL</td>
<td>European Police Office</td>
</tr>
</tbody>
</table>
**List of Abbreviations**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>EUTM Mali</td>
<td>European Union military mission to contribute to the training of the Malian Armed Forces</td>
</tr>
<tr>
<td>EWS</td>
<td>Early Warning System</td>
</tr>
<tr>
<td>FD</td>
<td>Framework Decision</td>
</tr>
<tr>
<td>FPÖ</td>
<td>Freedom Party</td>
</tr>
<tr>
<td>FRA</td>
<td>Fundamental Rights Agency</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GLF</td>
<td>Greek Loan Facility</td>
</tr>
<tr>
<td>HR</td>
<td>High Representative of the Union for Foreign Affairs and Security Policy</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>ICAO</td>
<td>International Civil Aviation Organisation</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Convenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>IGC</td>
<td>Intergovernmental Conference</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>IPPC</td>
<td>Integrated Pollution Prevention and Control</td>
</tr>
<tr>
<td>JHA</td>
<td>Justice and Home Affairs</td>
</tr>
<tr>
<td>LIBE Committee</td>
<td>Committee on Civil Liberties, Justice and Home Affairs</td>
</tr>
<tr>
<td>MBM</td>
<td>Market-Based Measure</td>
</tr>
<tr>
<td>MCEL</td>
<td>Maastricht Centre for European Law</td>
</tr>
<tr>
<td>MEP</td>
<td>Members of European Parliament</td>
</tr>
<tr>
<td>MFN</td>
<td>Most Favoured Nation</td>
</tr>
<tr>
<td>MIP</td>
<td>Macroeconomic Imbalance Procedure</td>
</tr>
<tr>
<td>MLA</td>
<td>Mutual Legal Assistance</td>
</tr>
<tr>
<td>MP</td>
<td>Member of Parliament</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>MTO</td>
<td>Medium-Term Budgetary Objectives</td>
</tr>
<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
</tr>
<tr>
<td>NRP</td>
<td>National Reform Programme</td>
</tr>
<tr>
<td>NSR</td>
<td>National Strategy Report</td>
</tr>
<tr>
<td>OAPEC</td>
<td>Organisation of Arab Petroleum Exporting Countries</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Cooperation and Development</td>
</tr>
<tr>
<td>OJ</td>
<td>Official Journal</td>
</tr>
<tr>
<td>OLAF</td>
<td>Office Européen de Lutte Anti-fraude (European Anti-Fraud Office)</td>
</tr>
<tr>
<td>OMC</td>
<td>Open Method of Coordination</td>
</tr>
<tr>
<td>OMT</td>
<td>Outright Monetary Transaction</td>
</tr>
<tr>
<td>ONEm</td>
<td>Office national de l’emploi</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organisation for Security and Cooperation in Europe</td>
</tr>
<tr>
<td>OVP</td>
<td>Austrian People’s Party</td>
</tr>
<tr>
<td>PES</td>
<td>Party of European Socialists</td>
</tr>
<tr>
<td>PIL</td>
<td>Private International Law</td>
</tr>
<tr>
<td>PISA</td>
<td>Programme for International Student Assessment</td>
</tr>
<tr>
<td>PLO</td>
<td>Palestine Liberation Organisation</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>PNR</td>
<td>Personal Name Record</td>
</tr>
<tr>
<td>PRD</td>
<td>Patients’ Rights Directive</td>
</tr>
<tr>
<td>QMV</td>
<td>Qualified Majority Voting</td>
</tr>
<tr>
<td>RAF</td>
<td>Rote Armee Fraktion</td>
</tr>
<tr>
<td>REACH</td>
<td>Registration, Evaluation, Authorisation and Restriction of Chemicals</td>
</tr>
<tr>
<td>RED</td>
<td>Renewable Energy Directive</td>
</tr>
<tr>
<td>SCE</td>
<td>European Cooperative Society</td>
</tr>
<tr>
<td>SCG</td>
<td>Stability, Coordination and Governance</td>
</tr>
<tr>
<td>SCIFA</td>
<td>Strategic Committee on Immigration, Frontiers and Asylum</td>
</tr>
<tr>
<td>SCP</td>
<td>Stability and Convergence Programme</td>
</tr>
<tr>
<td>SEA</td>
<td>Single European Act</td>
</tr>
<tr>
<td>SGP</td>
<td>Stability and Growth Pact</td>
</tr>
<tr>
<td>SME</td>
<td>Small and Middle-sized Enterprises</td>
</tr>
<tr>
<td>SMP</td>
<td>Securities Markets Programme</td>
</tr>
<tr>
<td>SNM</td>
<td>Stichting Natuur en Milieu</td>
</tr>
<tr>
<td>SPA</td>
<td>Social Policy Agreement</td>
</tr>
<tr>
<td>SPE</td>
<td>European Private Company</td>
</tr>
<tr>
<td>SPPM</td>
<td>Social Protection Performance Monitor</td>
</tr>
<tr>
<td>SPSI</td>
<td>social protection and social inclusion</td>
</tr>
<tr>
<td>SPV</td>
<td>Special Purpose Vehicle</td>
</tr>
<tr>
<td>TACIS</td>
<td>Technical Assistance for the Commonwealth of Independent States</td>
</tr>
<tr>
<td>TEPSA</td>
<td>Trans European Policy Studies Association</td>
</tr>
<tr>
<td>TEU</td>
<td>Treaty on European Union</td>
</tr>
<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
</tr>
<tr>
<td>TREVIE</td>
<td>Terrorisme, Radicalisme, Extrémisme et Violence Internationale</td>
</tr>
<tr>
<td>TSCG</td>
<td>Treaty on Stability, Coordination and Governance</td>
</tr>
<tr>
<td>UK</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNECE</td>
<td>United Nations Economic Commission for Europe</td>
</tr>
<tr>
<td>UNICE</td>
<td>Union of Industrial and Employers’ Confederations of Europe</td>
</tr>
<tr>
<td>USA</td>
<td>United States of America</td>
</tr>
<tr>
<td>WEU</td>
<td>Western European Union</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
<tr>
<td>WWF</td>
<td>World Wild Fund</td>
</tr>
</tbody>
</table>
ACKNOWLEDGEMENTS

By definition, editors of a volume are dependent on others. The present volume is truly the result of the collective effort of a great many people and we want to express our appreciation for their contribution in making this book a reality. We would like to thank the authors, all past or present members of the Maastricht Centre for European Law or Maastricht University’s Faculty of Law, who immediately and enthusiastically accepted our invitation to participate in this book project. Working with them has been an absolute pleasure. We also thank the publisher, Intersentia, and Kris Moeremans in particular, for their flexibility and commitment in making sure that this book was published in time for the 20th anniversary of the entry into force of the Maastricht Treaty. Finally, we are very grateful to Carol Ni Ghiollarnath and Marina Jodogne for their extraordinary assiduous efforts on the linguistic revision and the copy-editing: without them, this book would not have seen the light of day.

Maartje de Visser and Anne Pieter van der Mei
September 2013
I take great pleasure, as the Dean of Maastricht University’s Faculty of Law and a member of the Maastricht Centre for European Law (MCEL), to introduce this edited volume concerning the Maastricht Treaty and the development of EU law in the past two decades. This volume contains contributions written by authors who all are or were members of our Faculty or MCEL. This book is the product of a collective effort of dear colleagues and friends of mine all of whom I am proud to be associated with.

In addition it is a book that accurately reflects how our Faculty looks at EU law, both as regards education as well as research. The European law programmes that we offer, both at the Bachelor and Master levels, essentially study EU law from two different but complementary angles. The first entails a top-down approach, studying EU law and analysing how it impacts on national law. The second is rather a bottom-up approach and explores how national law, or the common law of Europe, can help to advance EU Law. This book does exactly the same: it brings together contributions written from an EU law perspective and articles viewing and analysing the Maastricht Treaty from a national angle. In so doing, the book also offers new insights and enhances our understanding of the impact the Treaty has had.

A wide variety of topics are touched upon in this book, including the ‘classic’ ones that have consistently dominated debates on ‘Maastricht’ – such as EMU, the so-called second and third pillars and Union citizenship – as well as less eye-catchy topics but nonetheless significant ones – such as the European Parliament’s right of enquiry, industrial and internal market policy or consumer policy. Each of the contributions gives a proper answer to the questions of what Maastricht has introduced in the field in question, why this was done and what the impact of these changes has been in the last 20 years. The answers to the latter question differ. There are failures, there are success stories and in some cases the jury is still out. Views on ‘how important Maastricht has been’ may differ – from topic to topic, from discipline to discipline, from country to country –, but there is no denying that the Treaty on European Union has had an impact that perhaps no other European treaty has had. The Treaty, and thus the city where it was signed and adopted, are simply part of European history.
I thank and compliment all those who have contributed to this volume and whole-heartedly recommend it to all those having an interest in European law and politics.

Hildegard Schneider
Dean, Faculty of Law
Professor of European Migration Law